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July 6, 2010

**Via Fax and ECF**

Hon. Claire C. Cecchi, USMJ  
Martin Luther King Federal Building  
& U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101  
Fax No. (973) 645-6664

**ORDER ON ORAL MOTION**

Re: John J. Cafaro et al. v. HMC International, LLC et al., 07-cv-2793 (JLL)  
Mitchell Berk et al. v. HMC International, LLC et al., 07-cv-181 (JLL)

Dear Judge Cecchi:

This office represents the Berk Plaintiffs in the above referenced matters serving as local and trial counsel, together with the Mortner Law Office who also remains as counsel to the Berk Plaintiffs. I write to your Honor to respectfully request that the Conference currently scheduled for July 20, 2010 be rescheduled, since July 20, 2010 is the Jewish day of fasting and mourning for the destruction of the temple in Jerusalem, namely, Tisha B'av, and we will not be working on that day.

Additionally, I respectfully request permission from this Court to file a Motion for Leave to File an Amended Complaint pursuant to Rule 15(a). In the Amended Complaint, we wish to add further detail to Count Nine directed at the Defendant (accounting firm) Bruno DiBello & Co. setting forth allegations of liability of DiBello pursuant to N.J.S.A. 2A:53A-25 in a more specific manner. N.J.S.A. 2A:53A-25 is the Statute governing negligence liability of accountants to third parties for all transactions entered into after March 17, 1995. DiBello is fully aware of N.J.S.A. 2A:53A-25, as in the Draft Pre-Trial Order DiBello raises N.J.S.A. 2A:53A-25 as supporting its contemplated Motion to Bar Plaintiff's claims. We wish to further perfect our Pleadings with regard to an issue known to all relevant parties in this matter, namely the requirements of New Jersey's accounting firm liability statute.

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I thank your Honor for considering this request.

Respectfully submitted,



E. David Smith

Cc: Moshe Mortner, Esq.  
Patrick Monaghan, Esq.  
Robert Podvey, Esq.  
Robert Massimi

EDS:AKA:k1

The in-person Final Pretrial Conference scheduled for July 20, 2010 is hereby adjourned to September 10, 2010 at 11:00 a.m. By September 3, 2010, the parties shall submit a joint proposed Final Pretrial Order to the undersigned.

**SO ORDERED**

s/Claire C. Cecchi  
Claire C. Cecchi, U.S.M.J.

Date: July 14, 2010